

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054**

No. F.DE.15(664) / PSB / 2022 / 4025-4029

Dated: 03/06/22

ORDER

WHEREAS, **G.D. Goenka Public School (School ID-1413275), Pocket-B, Sector-9, Rohini, Delhi-110085**, (hereinafter referred to as "School"), run by **Association of S. Kripal Education Society** (hereinafter referred to as the "Society"), is a private unaided School recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every School is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the School to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial statements, books of accounts and other records maintained by the School at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *'the managing committee of every recognised private School shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): *'every recognised School shall be inspected at least once in each financial year in such manner as may be prescribed'*

Rule 180 (3): *'the account and other records maintained by an unaided private School shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'*

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided Schools situated on the land allotted by DDA at concessional rates that:

"27 (c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the Schools have been complied with..."



28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the Schools.....

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided Schools to whom land has been allotted by DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directing all the private unaided recognized Schools, running on the land allotted by DDA/other land owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session 2019-20.

AND WHEREAS, in order to examine the proposals submitted by the Schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School very carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity of being heard on 24.02.2020 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing compliances against order no. FDE15(16) PSB/2019/1040-1044 dated 14.03.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the response of the School along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the School, were evaluated by the team of Chartered Accountants, the key findings noted are as under:

A. Financial Observations

- I. Direction No. 2 of Public Notice dated 4.05.1997 states "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, clause (vii) (c) of Order



No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Further, Rule 177 of DSER, 1973 states "*(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

- i. award of the scholarships to students,*
- ii. establishment of any other recognised school, or*
- iii. assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

(2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:-

- (a) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,*
- (b) the needed expansion of the school or any expenditure of a development nature,*
- (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,*
- (d) co-curricular activities of the students,*
- (e) reasonable reserve fund, not being less than ten percent, of such savings."*

Therefore, as per Rule 177 of DSER, 1973 income derived by an unaided recognised school by way of fees should be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees/staff of the school. Provided that savings, if any, may be utilised by its management committee for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The aforesaid savings shall be arrived at in accordance with the provision mentioned under Rule 177 of DSER, 1973.

Based on the aforementioned public notice and High Court Judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e., fee collected from students should not be utilised for the same.

The DoE in its Order No. FDE15(16) PSB/2019/1040-1044 dated 14.03.2019 issued for academic session 2017-18, that school incurred capital expenditure of INR 1,79,92,756 for construction of school building during the FY 2014-15 to 2016-17. It was further noted that the above expenditure was incurred without complying with requirement of Rule 177 of DSER, 1973 and other provisions mentioned above. The school incurred the above expenditure out the Development fund. Accordingly, in the aforesaid order the school was directed to recover INR 1,79,92,756 from the Society being obligation of the society which was met by the School which



is still pending for recovery. The DoE in the aforesaid order also noted that though the School has made addition to the building but the same was not reported in the audited financial statements of the school.

The representation submitted by the school against the aforesaid order dated 14.03.2019 were taken on record. On review of the reply of the school, it has been noted that the school has treated this expenditure as a redevelopment of school building as the building was constructed by the society in 2001. The school further submitted that initial building was constructed by the society from its own funds and thereafter, the school has been incurring capital expenditure for better upkeep of the building.

The representation of the school is not correct because as per clause 14 of the order dated 11.02.2009 development fund can only be used for purchase upgrade and replacement of furniture and fixture and equipment of the school; it cannot be used for any other purpose other than for the specified nature.

Further, Clause 7.24 of Duggal committee states *"Simultaneously, it is also to be ensured that the Schools, do not discharge any of the functions, which rightly in the domain of the Society out of the fees or other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the Society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then the contribution of the Society that professes to run the School."*

Thus, the School cannot incur any expenditure on the construction of school building out of the school funds. It is also important to mention here that even after incurring this expenditure the school has not reported the same in its audited financial statements. This clearly indicates that the School is not preparing and reporting the audited financial statements correctly.

In addition to the above, it has been noted that the School has further spent INR 83,36,940 for addition to school building during the FY 2017-18 without complying with above mentioned provisions. Therefore, total amount of INR 2,63,29,696 incurred by the school for addition to the school building without complying with the above-mentioned provisions is recoverable from the Society and therefore, has been included while deriving the fund position of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

- II. Section 18(4) of DSEA 1973 states *"fees/funds collected from the parents/students shall be utilised strictly in accordance with prescribed rules."* No amount whatsoever shall be transferred from school to the society. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings."*

Also, the Direction No. 2 included of the Public Notice dated 4.05.1997 states *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The*

tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."

The DoE in its Order No. FDE15(16) PSB/2019/1040-1044 dated 14.03.2019, issued post evaluation of fee increase proposal for academic session 2017-18, noted that during FY 2010-11, the school took secured loan from Indian Overseas Bank of INR 4.7 Crores and INR 1.85 for redevelopment of school building. During the FY 2014-15, the school had paid INR 1, 62,09,538 against the aforesaid loan as per the receipts and payment account and FY 2015-16, the remaining balance of loan of INR 4,28,21,553 was squared off by taking another loan from Kotak Mahindra Bank. All these were loan taken in the name of the Society. Out of the above loan of INR 4,28,21,553, an amount of INR 3,25,23,998 was transferred by the school to school which the school has reported as "Unsecured Loan taken from Society" in its audited financial statements.

With respect to the above-mentioned loans, the school had paid INR 2,74,91,331 towards principal repayment and INR 1,85,36,259 towards interest during the financial year 2014-15 to 2016-17. Accordingly, the school was directed to recover this amount from the Society which is still pending for recovery.

Further, review of the audited financial statement of FY 2017-18 revealed that the school has purchased bus of INR 22,79,800 by taking loan of INR 16,89,133 leaving the closing balance of the loan INR 10,29,736 as on 31.03.2019. Therefore, the school funds which has been utilized by the school for purchase of this bus together with repayment of loan and interest cost i.e. INR 12,50,064 (INR 22,79,800 minus INR 16,89,133 and INR 16,89,133 minus INR 10,29,736) is recoverable from the Society.

In addition to the above, the school during FY 2018-19 purchased Innova Car for INR 27,93,942 by taking loan of INR 20,79,423 leaving the closing balance of loan INR 20,79,423 as on 31.03.2019. Therefore, the school funds which has been utilized by the school for purchase of this car i.e., INR 7,14,519 (INR 27,93,942 minus INR 20,79,423) recoverable from the Society.

Accordingly, the total funds which has been utilized by the school for repayment of loans and purchase of bus and car are recoverable from the Society. Accordingly, INR 2,44,74,837 has been included in the calculation of fund position of the school with the direction to the school to recover this amount from the Society within 30 days from the date of order of this issue. The detail calculation of which is provided as under:

Particulars	Amount (in INR)
Amount Recoverable as per previous year order	2,74,91,331
Add: Amount recoverable towards purchase of Car	7,14,519
Add: Amount recoverable towards purchase of Bus	12,50,064
Add: Amount paid to Society	1,18,10,655
Less: Amount received from Society	1,67,91,732
Amount receivable from the Society	2,44,74,837

III. According to para 7.14 of the Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "Plan assets comprise:

- assets held by a long-term employee benefit fund; and
- qualifying insurance policies."

While the school has obtained actuarial valuation in respect of its liability towards retirement benefits and has reported the same in its audited financial statements. However, the school has

not invested equivalent amount in a fund that qualify as "plan assets" within the meaning of AS-15. The summary of total liability as determined by the actuary and amount invested by the school in plan assets is provided below.

Particular	Amount as per Actuarial Valuation Report	Amount as per Audited Financial Statements	Investment
Retirement benefits for FY 2016-17	-	-	-
Retirement benefits for FY 2017-18	30,78,573	30,78,573	-
Retirement benefits for FY 2018-19	51,96,700	51,96,700	-

Since, the school has not invested any amount in plan in plan asset within the meaning of AS-15. The total liability provided by the school in its audited financial statement of FY 2018-19 amounting to INR 51,96,700 has not been considered while deriving the fund position of the School. The school is hereby directed to investment this amount in plan assets within 30 days from the date of issue of this order. However, retirement benefit paid during FY 2018-19 has been considered while deriving the fund position of the school.

- IV. Section 13 (1) of the Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure"*.

Section 13 (2) of the Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1),-*

- receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
- subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

And section 2(b) of the Right to Education Act, 2009 states *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

Further, the Supreme Court in its Judgement dated 02 May 2016 in the matter of Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]' held that education is a noble profession and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

The Hon'ble Supreme Court categorically held that *"though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is*

concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions."

Further, the Hon'ble High Court in LPA 196/2004 in the matter of 'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009' states "no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged".

Further, The Directorate of Education, vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009, indicated the following types of Fee that a recognised private unaided school can collect from the students/ parents:

- a. **Registration Fee:** Registration fee INR 25 per student prior to admission, shall be charged.
- b. **Admission Fee:** No admission fee of more than INR 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states "admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage".
- c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 per student shall be charged. The caution money thus collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.
- d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.
- e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.
- f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.
- g. **Development Fee:** It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture and equipment.

Based on the provisions mentioned above, charging of 'Orientation Charges' of INR 21,393 per student, at the time of admission is nothing but is in the nature of capitation fee only. Additionally, not only the charging of one-time fee at the time of admission is tantamount to capitation fee but also if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form. Accordingly, the collection of one-time fees from the students at the time of admission indicates that the school is engaged in profiteering and commercialization of education.

The school in its reply against the previous year order explained that *"Orientation charges so raised was duly approved by the managing committee and statement of fee structure U/s 17(3) of DSEA, 1973 for the session 2015-16 and 2016-17 was submitted to the concerned education office."*

Further, during the discussion the school explained that this amount is utilised for co-curricular activities of the students. Therefore, the reply of the school is not correct because collection of 'Orientation charges' has not been defined for recognised private unaided school and the purposes for which the school has utilised the same is covered under 'Annual Charges/ tuition fee' collected by the school from students.

Further, as per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and recover this amount from the manager/ principal of the school along with the penalty of 10 times and refund/ adjust the same against the subsequent installment of fee by the students. The school is also directed to submit compliance with this direction within 30 days from the date of issue of this order. Non- compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

B. Other Observations

- I. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 states *"The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."* Further clause 21 of the aforesaid order states *"No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school."*



Rule 176 provides "Income derived from collections for specific purposes shall be spent only for such purpose." Further, as per Clause 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 states "Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged." And as per Sub-rule 3 of Rule 177 of DSER, 1973 "Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)." Further, Sub-rule 4 of the said rule states "The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."

However, on review of the audited financial statements of the school, it has been noted that the school charges earmarked levies in the form of Transport Fees, Health & Hygiene, Lab & IT Charges, Lab & IT Charges from the students. However, the school has not been maintaining separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) which has been met from other fees/income.

Also, as per Guidance Note 21 Accounting by Schools issued by the ICAI, earmarked levies collected from students are a form of restricted funds, and which are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet. The above-mentioned Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column). However, school has not been following fund-based accounting in accordance with the principles laid down by aforesaid Guidance Note.

The similar observation was also noted in DoE Order No. FDE15(16) PSB/2019/1040-1044 dated 14.03.2019 issued for academic session 2017-18 wherein the School was directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

During the personal hearing the school accepted that at times, they have been used to meet shortfall in Tuition Fee vis-à-vis Establishment cost as Tuition Fee is not sufficient and thus, utilised the earmarked levies for meeting the shortfall. Details of income and expenditure of earmarked levies as per audited financial statements are as follows:

Particulars	Transport Fee	Health & Hygiene	Lab & IT Charges	Safety & Security
For the year 2016-17				
Fee Collected during the year(A)	96,48,309	72,59,557	7,81,500	97,62,707

Particulars	Transport Fee	Health & Hygiene	Lab & IT Charges	Safety & Security
Expenses during the year (B)	73,57,346	53,02,335	27,50,992	77,47,010
Difference for the year (A-B)	22,90,963	19,57,222	(19,69,492)	20,15,697
For the year 2017-18				
Fee Collected during the year(A)	9,56,56,513	76,24,777	6,50,000	1,02,56,915
Expenses during the year (B)	85,03,739	75,31,497	6,46,684	1,26,82,840
Difference for the year (A-B)	8,71,52,774	93,280	3,316	(24,25,925)
For the year 2018-19				
Fee Collected during the year(A)	1,37,83,800	85,82,340	4,90,500	1,15,42,318
Expenses during the year (B)	1,01,59,684	86,66,299	5,44,473	1,43,68,416
Difference for the year (A-B)	36,24,116	(83,959)	(53,973)	(28,26,098)
Total	9,30,67,853	19,66,543	(20,20,149)	(32,36,326)

In view of the above the school is again directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

- II. Clause 3 of the public notice dated 04.05.1997 published in the Times of India states *"No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of Rs. 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate."*

Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states *"No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund."*

The DoE in its Order No. FDE15(16) PSB/2019/1040-1044 dated 14.03.2019, issued for academic session 2017-18, it was noted that school is not maintaining separate bank account for deposit of caution money collected and not credited the interest earned thereon to the credit of caution money account. It was also noted that interest earned on caution money is not paid to the students at the time of his/her leaving from the School. Accordingly, the school was directed to open a separate bank account for caution money deposit and to transfer the interest thereon to the credit of caution money account and to refund the caution money to the students along with interest earned thereon.

During personal hearing, the school submitted that it has stopped collecting caution money from the students and has started adjusting the caution money already collected from old students

against the fee due from them and will adjust the balance amount payable in the coming financial year completely. Thus, based on the explanation provided by the school, the school should refund/adjust total caution money/ adjust the same against the fee payable by the students. Accordingly, the amount payable as on 31.03.2019 against caution money has been considered while deriving the fund position of the school.

- III. As per Clause 14 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009, *Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture fixtures and equipment's. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account.*

As per para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure upon incurrence of the expenditure the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter the concerned restricted fund account is treated as deferred income to the extent of the cost of the asset and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*" Further, Para 102 of the abovementioned Guidance Note states "*In respect of funds, schools should disclose the following in the schedules/notes to accounts:*

- a) *In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end*
- b) *Assets, such as investments, and liabilities belonging to each fund separately*
- c) *Restrictions, if any, on the utilization of each fund balanced)*
- d) *Restrictions, if any, on the utilization of specific assets."*

Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

From the presentation made in the audited financial statements of FY 2018-19, it has been noted that school has started maintaining of development fund utilization account upon purchase of assets out of the development fund. However, this account is not written off in the proportion of depreciation charged to income and expenditure account. This is not in accordance with the accounting treatment specified in para 99 of the guidance noted 21. Therefore, the school is directed to following accounting treatment specified in para-99 of the guidance note cited above.

- IV. Clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties. From review of the audited financial statements of 2018-19, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between



the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

After detailed examination of all the material on record and considering the clarification submitted by the school, it was finally evaluated/ concluded that:

- i. The total funds available for the year 2019-20 amounting to **INR 25,35,50,672** out of which cash outflow for the year 2019-20 is estimated to be INR 22,34,36,851. This results in net surplus of **INR 2,01,13,821**. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.19 as per audited financial statements of FY 2018-19	55,16,321
Investments as on 31.03.19 as per audited financial statements of FY 2018-19	6,25,059
Liquid Funds	61,41,380
Fees as per audited financial statements of FY 2018-19 on the assumption that amount received in FY 2018-19 will at least accrue in FY 2019-20	16,78,83,202
Other Income as per audited financial statements of FY 2018-19 on the assumption that amount received in FY 2018-19 will at least accrue in FY 2019-20	19,87,797
Add: Amount recoverable from society against utilization of development fund for upgradation of building (Refer financial observation I)	2,63,29,696
Add: Amount recoverable from society for payment of payment of loan taken for construction of building (Refer financial observation II)	2,44,74,837
Add: Amount recoverable from society against interest paid on loan taken for construction of building (Refer financial observation II)	2,82,18,838
Total Fund Available with the School for FY 2018-19	25,50,35,750
Less: FDR in the joint name of School and Secretary, CBSE as on 31.03.2019	6,25,059
Less: Development fund balance as on 31.03.2019	5,69,519
Less: Caution money as on 31.03.2019	2,90,500
Less: Depreciation Reserve (Refer Note 1 below)	-
Less: Retirement Benefit (Refer financial observation III)	-
Net Funds Available for FY 2018-19	25,35,50,672
Less: Total cash outflow (Revenue Expenditure + Capital Expenditure - Depreciation (Refer Note 2 below))	19,80,20,554
Less: Salary arrears towards 7th CPC from Jan 2016 to Mar 2019 (Refer Note 3 below)	3,54,16,297
Cash Surplus	2,01,13,821

Note 1: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This

recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund of FY 2018-19 has not been considered while deriving the fund position of the School.

Note 2: All budgeted expenditure of FY 2019-20 has been considered in the table above except salary expense of INR 53,86,646 being budgeted excessively has been disallowed.

Note 3: The Directorate vide order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized Schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their Schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated

14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states "*the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*". Therefore, employees of all the private unaided recognized Schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

As per submission made by the School, INR 3,54,16,297 has been considered as 7th CPC arrears while deriving the fund position of the School with the direction to the School to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the School would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. In view of the above examination, it is evident that the school has sufficient funds to carry on the operation of the school for the academic session 2018-19 on the existing fees structure. In this regard, the Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that:

"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other discrepancies, that the sufficient funds are available with the school to carry out its operations for the academic session 2019-20 therefore, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is also noted that the School has incurred INR 7,90,23,371 for addition to building, repayment of loan taken for construction of building, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 7,90,23,371 from the society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA & R, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (Education) for consideration and who after considering all the material on the record, and after considering the provisions of sections 17 (3), 18(5), 24(1) of the DSEA, 1973 read with rules 172, 173, 175 and 177 of the DSER, 1973 has found that the funds are available with the School for meeting its financial implication for the academic session 2019-20.



Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

AND WHEREAS, the School is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2019-2020 of **G.D. Goenka Public School (School ID-1413275), Pocket-B, Sector-9, Rohini, Delhi-110085**, has been rejected by the Director (Education).

Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2019-20. In case, the School has already charged increased fee during FY 2019-20, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10(1) of the DSEA, 1973. Therefore, the Society running the School must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This order is issued with the prior approval of the Competent Authority.

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
G.D. Goenka Public School
School ID 1413275
Pocket-B, Sector-9, Rohini,
Delhi-110085

No. F.DE.15(664)/PSB/2022/4025-4029

Dated: 03/06/22

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West-B) to ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

(Yogesh Pal Singh)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi